

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON)	
PURCHASE ENERGY CORPORATION FOR A)	CASE NO.
GENERAL ADJUSTMENT OF RATES AND)	2021-00358
OTHER GENERAL RELIEF)	

ORDER

On November 28, 2021, Jackson Purchase Energy Corporation (Jackson Purchase) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for a document provided in response to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention’s (Attorney General) First Request for Information (Attorney General’s First Request) Item No. 42.

In support of its motion, Jackson Purchase argued that this document is exempt from public disclosure pursuant to KRS 61.878(1)(c)(1), which states: “Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” The document at issue is a Key Trend Ratio Analysis comprised of comprehensive details of internal Jackson Purchase business figures for a five-year period across 145 different factors, including financial, revenue, expense, growth, pricing, and other data compared with proprietary national and regional data collected by a third party for use in this report. Jackson Purchase alleged that disclosure of the report could unfairly and irrevocably

prejudice Jackson Purchase by disclosing terms which could be utilized by Jackson Purchase's current and future contractors, or by industry competitors, to their substantial commercial advantage by being able to use Jackson Purchase's financial and operational standing relative to other similarly situated cooperatives to leverage favorable contract terms, including price, for various goods and services. Jackson Purchase also argued that the report is proprietary to the third party that provided it and is protected by copyright law.

Having considered the motion and the material at issue, the Commission finds that the Key Trend Ratio Analysis document provided in response to Attorney General's First Request Item No. 42 is generally recognized as confidential or proprietary. Contractors or competitors could use this comprehensive document to their advantage and to Jackson Purchase's detriment. The national data should also be held confidential because it is proprietary to the third party. Jackson Purchase's ability to obtain this type of information in the future is dependent on maintaining confidentiality of such proprietary data. The Commission previously protected a third-party actuarial report,¹ which similarly included proprietary data gathered for the purpose of generating said report for a utility for compensation. The Key Trend Ratio Analysis therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Jackson Purchase's motion for confidential treatment is granted.

¹ Case No. 2018-00358, *Electronic Application of Kentucky American Water Company for an Adjustment of Rates* (Ky. PSC Mar. 14, 2019), Order at 2.

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.

3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. Jackson Purchase shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Jackson Purchase shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Jackson Purchase is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Jackson Purchase to seek a remedy afforded by law.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda G. Bridwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

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